REMARKS

The present response amends claims 1, 14, and 29. Claims 1-30 remain pending in the captioned case. Further examination and reconsideration of the presently claimed application are respectfully requested.

Section 103 Rejection

Claims 1-30 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,026,383 to Ausubel (hereinafter "Ausubel") in view of U.S. Patent No. 6,442,141 to Borella et al. (hereinafter "Borella"). To establish a case of *prima facie* obviousness of a claimed invention, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. Second, there must be a reasonable expectation of success. As stated in MPEP 2143.01, the fact that references can be hypothetically combined or modified is not sufficient to establish a *prima facie* case of obviousness. *See In re Mills*, 916 F.2d. 680 (Fed. Cir. 1990). Finally, the prior art references must teach or suggest all the claim limitations. *In re Royka*, 490 F.2d. 981 (CCPA 1974); MPEP 2143.03. Specifically, "all words in a claim must be considered when judging the patentability of that claim against the prior art." *In re Wilson* 424 F.2d. 1382 (CCPA 1970). Using these standards, Applicants contend that the cited art fails to teach or suggest all features of the currently pending claims, some distinctive features of which are set forth in more detail below.

Ausubel and Borella, neither singularly nor in combination, teach or suggest a network server that, upon receiving a process execution from a network client, provides a bid solicitation for the process execution from a network host. Independent claim 1 clearly recites (i) a network server, (ii) a network client, and (iii) a network host. The network server receives a payload from the network client, and provides a bid solicitation from a network host. The three separate and distinct entities explicitly recited in independent claim 1 are neither taught nor suggested in the cited art.

Ausubel only illustrates two computing entities: a bidding information processor 110 and a bid entry terminal 120 (Ausubel -- Fig. 1a). Users (or bidders) at the bid entry terminals send and receive information via a communication link to the bidding information processor (Ausubel -- col. 2, lines 61-67). Thus, the bid entry terminal of Ausubel may be situated like a network client for sending and

receiving information by a user, and the bidding information processor of Ausubel may be situated like a network server for receiving that information, all other similarities between Ausubel and present independent claim 1 are nonexistent.

Ausubel makes no reference to any communication between a network client and a network host, for example. Accordingly, Applicants do not agree with the characterizations made on page 2 of the Office Action, in which the Examiner alleges Ausubel discloses a network client that "provides a bid solicitation for the process execution from a network host." Nowhere in Ausubel is there any connection shown or suggested between a network client and a network host. Thus, absent any such connection or identification of a network client and network host, Ausubel certainly cannot suggest a bid solicitation provided by a network client for process execution from a network host. In addition to the shortcomings of Ausubel, Borella makes clear that it is also a two computing entity system.

Borella specifically describes only two computing entities: a client host and a server host (Borella -- col. 1, lines 27-52). The network measurement system of Borella is thereby limited to only a client host and a server host located at endpoints in order to measure packets sent and returned between the client/server, and produce trace files that can simulate network delay and loss characteristics. Absent a three computing entity system as presently claimed, Borella suffers the same deficiencies as Ausubel.

Ausubel and Borella, neither singularly nor in combination, teach or suggest a network server that simulates process execution from a host server. Present independent claims 1, 14, and 29 recite a network server that simulates process execution that will take place from a host server. The importance of being able to simulate execution of a process from a host server lies mostly in being able to bid the computing resources by a host server. As set forth in the present specification, computing resources are very expensive to "acquire and maintain" (Specification -- pg. 6, lines 24-28). Thus, it would be desirable to make available intensive data processing and computing resource allocation to users who, "on their own, would never be able to buy, maintain, or staff the data centers necessary to perform intensive data processing" (Specification -- pg. 7, lines 8-11).

To achieve this benefit, a network server will "act as an intermediary between a client and a host in negotiating a price for the execution of a process" (Specification -- pg. 8, lines 9-14). The network server will receive a payload that contains a specification of a particular process requiring execution by a computing system -- that process being attributable to or associated with a task (Specification -- pg. 13,

lines 4-24). Once the payload and specification for the process is received by the network server from the network client, the network server can then solicit bids from a network host, for that host to then execute the process (Specification -- pg. 17, lines 26-28). The bids solicited by the network server are indicative of a dollar amount that a network host would charge, in terms of computing resources needed, to execute that particular process being solicited.

An example is set forth in the present specification, in which a network client desires to execute a media job to write a number of CDs (Specification -- pg. 13, lines 4-8). The network client may not have sufficient computing resources to execute the media job needed to send messages to customers via cellular phones; thus, the network client presents its request for computing resources to the network server in the form of a payload (Specification -- pg. 13, lines 10-13). The payload contains the specification needed to execute the media job, and the network server will solicit bids from possibly numerous network hosts to determine, for example, which host can perform the job based on the required resources for the least amount of money (Specification – pg. 13, line 15 - pg. 14, line 21). A financial resolution center (FRC) can be used to provide payments from the network server to the network host when the process execution of the task is completed (Specification – pg. 14, lines 16-21).

Nowhere in Ausubel is there any mention of a network server that will simulate a process execution as presently claimed, and certainly Ausubel makes no mention that a skilled artisan when reading Ausubel would deduce the purpose of simulation is to determine computing resource allocation and thereby provide a bid estimate or dollar figure. In addition, Borella does not fulfill the deficiencies of Ausubel. First, Borella makes no mention of a network server that simulates process execution from a host server since Borella makes no mention of two types of servers. Instead, Borella mandates only one server and then a client. Second, Borella does not simulate process execution. A skilled artisan would know that simulation of process execution involves actually simulating the execution of a process on a CPU in, for example, a host server. Borella specifically requires simulation of only network delay and loss characteristics indigenous to a network communication link -- not simulation of a CPU within a host server. Simply put, delay and loss characteristics of a communication link has nothing whatsoever to do with process execution within processors or CPUs of a host server, or other forms of execution units.

Ausubel and Borella, neither singularly nor in combination, teach or suggest simulating a process execution by estimating computing resources required to carry out the process execution. Present claims 1, 14, and 29 have been amended to make clear that simulating of process execution

involves estimating the computing resources needed by a network host, for example, to carry out the process execution. Support for this amendment is contained throughout the present specification -- particularly, on page 28, line 26 - page 29, line 23. Nowhere in either Ausubel or Borella is there any mention of estimating computing resources required to carry out a process execution. Thus, the cited art cannot suggest simulating a process execution as claimed. As set forth in the present specification, computing resources include, for example, memory, disk, communication bandwidth, processor usage, output handling, distribution, storage, etc., all of which would be involved in processing a task by a network host. Those resources must be simulated in order for the network host to have some ballpark figure on what would be required to execute a process, and then be able to respond to a bid solicitation from the network server in terms of a dollar figure.

For at least the reasons set forth above, Applicants assert that independent claims 1, 14, and 29, as well as claims dependent therefrom, are patentably distinct over the cited art. Accordingly, Applicants respectfully request removal of this rejection.

CONCLUSION

The present amendment and response is believed to be a complete response to the issues raised in the Office Action mailed March 31, 2004. In view of the remarks traversing the rejections, Applicants assert that pending claims 1-30 are in condition for allowance. If the Examiner has any questions, comments, or suggestions, the undersigned earnestly requests a telephone conference.

No fees are required for filing this amendment; however, the Commissioner is authorized to charge any additional fees which may be required, or credit any overpayment, to Conley Rose, P.C. Deposit Account No. 03-2769/5468-06700.

Respectfully submitted,

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